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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,979	09/27/2006	Michael Lenz	095309.57424US	8852

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CROWELL & MORING LLP  
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EXAMINER
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HOANG, JOHNNY H

ART UNIT	PAPER NUMBER
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3747

MAIL DATE	DELIVERY MODE
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02/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/568,979

Applicant(s)

LENZ, MICHAEL

Examiner

JOHNNY H. HOANG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/21/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7, 9-10 and 13 are rejected under 35 U.S.C 102(b) as being anticipated by Reuschenbach et al (US 5,522,367). The reference discloses a method and device for predicting a load signal in connection with the control of an internal combustion engine having an exhaust gas purification system including the following subject matters: carrying out intake air throttling to raise an exhaust gas temperature in a low-load mode and in a traction mode, determining an amount of intake air throttling as a function of an expected load demand so that, with an expected unchanged or decreasing load demand, an increased or maximum possible intake air throttling is set, and with an expected rising load demand, no or a reduced intake air throttling is set, wherein the expected load demand is estimated based on operating and ambient parameters of the internal combustion engine (see summary, col. 3, line 3 through col. 5, line 42). See entire document for further details.

4. Claims 7 and 9-13 are rejected under 35 U.S.C 102(b) as being anticipated by Watt et al (US 5,995,895). The reference discloses a control system for controlling a vehicle system including the following subject matters: carrying out intake air throttling to raise an exhaust gas temperature in a low-load mode and in a traction mode, determining an amount of intake air throttling as a function of an expected load demand so that, with an expected unchanged or decreasing load demand, an increased or maximum possible intake air throttling is set, and with

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an expected rising load demand, no or a reduced intake air throttling is set, wherein the expected load demand is estimated based on operating and ambient parameters of the internal combustion engine (see the background and summary of the invention) which applied for claims 7, 9-10 and 13. The reference further discloses a measurement of the distance from a vehicle traveling ahead (col. 13, lines 1-9) which applied for claims 11 and 12.

***Allowable Subject Matter***

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references are related to the traction control system for motor vehicle.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNY H. HOANG whose telephone number is (571)272-4843.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen K. Cronin can be reached on (571) 272-4536. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

JHH  
November 7, 2003

Johnny H. Hoang  
Examiner  
Art Unit 3747

*William R. Wolfe*  
William R. Wolfe  
Primary Examiner  
Art Unit 3747